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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/519,592	12/27/2004	Martin Posch	AT02 0042 US	2620
65913 7590 01/31/2008 NXP, B.V. NXP INTELLECTUAL PROPERTY DEPARTMENT M/S41-SJ 1109 MCKAY DRIVE SAN JOSE, CA 95131				
			EXAMINER NGHIEM, MICHAEL P	
			ART UNIT 2863	PAPER NUMBER
			NOTIFICATION DATE 01/31/2008	DELIVERY MODE ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

ip.department.us@nxp.com

## Office Action Summary

**Application No.**

10/519,592

**Applicant(s)**

POSCH ET AL.

**Examiner**

Michael P. Nghiem

**Art Unit**

2863

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 05 November 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-17 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 27 December 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
- 1) ☒ Certified copies of the priority documents have been received.
  - 2) ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - 3) ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

The Amendment filed on November 5, 2007 has been acknowledged.

### ***Information Disclosure Statement***

The copy of the Patents Abstract of Japan Vol. 018, NO. 039 has been considered (see cited JP 05-265866 "Takayuki" attached to the Office Action filed on August 3, 2007).

### ***Specification***

Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

The Abstract filed on November 5, 2007 is not submitted on a separate page.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Takayuki (JP 05-265866) in view of Furuhashi (US 6,800,894).

Regarding claims 1 and 6, Takayuki discloses a data carrier comprising a circuit (Fig. 1), which circuit comprises the following components, namely

- first memory means (4), which are designed for modifiable storage of information (paragraph 0002, line 18), the information being modifiable by an ambient parameter of the circuit (data alteration from outside, paragraph 0002, line 20), which ambient parameter acts on the first memory means (paragraph 0002, lines 19-20), characterized in that the first memory means comprise a test memory area (6), which is provided for storing test information (Fig. 1), and

- second memory means (2) are provided which are designed for unmodifiable storage of reference information (data in built-in ROM 2, paragraph 0002, line 3), and

- detection means (check means, paragraph 0002, line 2) are provided, to which the test information which may be read out from the first memory means and the

reference information which may be read out from the second memory means may be supplied and which are designed (Constitution, lines 2-5), with the aid of the read-out test information (data in 4, paragraph 0002, line 3) and the read-out reference information (data in 2, paragraph 0002, line 3), to detect a modification of the originally stored test information (check if data are fixed in advance or not, Constitution, lines 8-9) brought about by an ambient parameter (from outside, paragraph 0002, line 20) acting on the first memory means (paragraph 0002, lines 18-20).

Regarding claims 2 and 7, Takayuki discloses comparison means for comparing the stored test information with the stored reference information (Constitution, lines 2-5).

Regarding claims 3 and 8, Takayuki discloses enabling means are provided for the purpose of irreversibly enabling functioning of the detection means (checking is irreversible once it has been performed), and the detection means are designed to cooperate with the enabling means (check means are deemed to be enabled to perform checking, Constitution, lines 2-5).

Regarding claims 4 and 9, Takayuki discloses that the detection means are designed to generate and output an indicator signal (indicates coincident or not, Constitution, lines 4-5), which indicator signal is provided to indicate a modification of the originally stored test information brought about by an ambient parameter acting on the first memory means (check if elements are not coincident, Constitution, lines 2-5, 12-13) and the

circuit is designed to influence its operating behavior as a function of the indicator signal (Constitution, lines 13-14).

Regarding claims 5 and 10, Takayuki discloses that the test information is formed of at least two bits (data in 4, Fig. 3, e.g. data 11, 22, C8), which at least two bits differ from one another with regard to their logical value (e.g. data C8 is 11001000).

Regarding claim 11, Takayuki discloses that the circuit takes the form of an integrated circuit (Fig. 1 shows CPU, ROM's, PROM's, RAM's).

Regarding claims 12 and 13, Takayuki discloses that the detection means generates and outputs an indicator signal (indicates coincident or not, Constitution, lines 4-5) that provides a perpetual indication (indication of status, e.g. coincident indication, remains until status changes, e.g. changes to not coincident indication) of the modification of the originally stored test information (check if elements are not coincident, Constitution, lines 2-5, 12-13).

However, Takayuki does not disclose the following:

- regarding claims 1 and 6, the ambient temperature is of a short-wave light, an electromagnetic field, and a high temperature.
- regarding claims 14 and 16, the ambient parameter deletes the test information.

- regarding claims 15 and 17, the ambient parameter renders the test information unusable.

Nevertheless, Furuhashi discloses that data in ROM's and EPROM's can be erased by ultraviolet light (column 6, lines 15-20).

Therefore, it would have been obvious to a person having ordinary skill in the art at the time the invention was made to recognize that the data in the ROM/EPROM of Takayuki could potentially be erased and damaged by ultrasonic light as disclosed by Furuhashi. Furuhashi discusses the well-known potential problems of ROM/EPROM chips being erased and/or damaged by ambient parameters such as short-wave light, e.g., ultraviolet light.

### ***Response to Arguments***

Applicant's arguments filed on November 5, 2007 have been fully considered but they are not persuasive.

With respect to claims 3 and 8, Applicants argue that Takayuki does not disclose irreversibly enabling functioning of the detection means.

Examiner's position is that Takayuki discloses irreversibly enabling functioning of the detection means (checking is irreversible once it has been performed). Once the software execution is enabled for checking (Constitution, lines 1-2), the detection means (check means, Constitution, line 2) will irreversibly perform its checking function (Constitution, lines 1-5).

Applicants' arguments regarding the remaining claims have been addressed above.

### ***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.



***Contact Information***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael Nghiem whose telephone number is (571) 272-2277. The examiner can normally be reached on M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Barlow can be reached on (571) 272-2269. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/Michael P. Nghiem/

Primary Examiner, GAU 2863

January 22, 2008